

CITY OF BATTLE GROUND
Clark County, Washington
January 1, 1991 Through December 31, 1992

Schedule Of Findings

1. The City Of Battle Ground Mayor Should Comply With Sewer Permit Regulations

The mayor of the City of Battle Ground owns and operates DeShirlia Construction. Since 1989, the mayor's company received county building permits for construction projects before the required city sewer connection permit fees were paid, in violation of city Resolution 208, dated November 6, 1989. This resolution allows for payment of a ten percent deposit, but requires full payment of the city sewer connection permit fees before a county building permit is issued. On six occasions, DeShirlia Construction paid \$1,970 to \$16,650 per connection fee, from 3 to 16 months after the city's payment deadlines. The firm paid a ten percent deposit on two of the six occasions, but in no case did it pay the full amount when due. In order for the firm to secure county building permits, the city clerk/treasurer and other city employees sent the county building department letters falsely stating that all fees had been paid. The employees knew, or should have known, that the fees for these projects had not been paid.

The city's Resolution 208 states that once the sewer-water committee approves a sewage connection application:

. . . the sewer connection permit fee must be purchased within fifteen (15) days, either by paying full price or by making a nonrefundable ten percent (10%) deposit, with the balance due in not more than ninety days or prior to issuance of a building permit, whichever occurs first.

RCW 42.20.010 Misconduct of public officer, states in part:

Every public officer who shall) (3) Employ or use any person, money, or property under his official control or direction, or in his official custody for the private benefit or gain of himself or another, Shall be guilty of a gross misdemeanor

RCW 42.20.050 Public officer making false certificate, states in part:

Every public officer who, being authorized by law to make or give a certificate or other writing, shall knowingly make and deliver as true such a certificate or writing containing any statement which he knows to be false, in a case where the punishment thereof is not expressly prescribed by law shall be guilty of a gross misdemeanor.

Since the mayor did not pay the fees when due, he had use of money which rightfully belonged to the city. The mayor received a privilege not available to other applicants. Additionally, during the time the connection permits were issued, the total number of permits available to the city was limited by the State Department of Ecology. Because the

mayor secured connection permits without having met the requirements, other applicants may have been placed at a disadvantage or denied permits. However, the sewer-water committee chairman indicated he believes that no permits were denied for such cause.

The mayor indicated that his failure to pay the connection permit fees timely was an unintentional oversight and has agreed to pay the city interest on the amount of fees paid late.

We recommend that in all future transactions the mayor's company be subject to the same requirements as other citizens of the city. We also recommend that Mr. DeShirlia repay the city \$2,219 interest which it could have earned had the fees been paid according to the city's resolution. We further recommend that the city clerk/treasurer ensure that all certifications made by her office are accurate.